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REMARKS

Claims 1-20 are currently pending in the patent application. The Examiner has rejected Claims 1 and 5 as indefinite. Amendments are submitted to Claims 1, 5, 10 and 12 to address the antecedent basis concerns. The Examiner has newly rejected Claims 1-20 under 35 USC 102 as anticipated by Yang.

The present invention is directed to an apparatus, program storage device, and a method for evaluating workload across a processing environment having a plurality of computer systems each having a plurality of assigned workload units, wherein the method comprises the steps of assigning a plurality of impact values, one impact value for each workload unit assigned for each of the plurality of computing systems, wherein the assigning of each impact value comprises determining a change in system expiration date should the workload unit be removed from the system; and assessing the workload based on the impact values.

An impact value is assigned for each workload unit, wherein a workload unit is expressly defined for the application as "a subset of the workload", the workload being "the set of identifiable tasks that execute in the processing system" (see: page 8, line 19-page 9, line 3).

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For each subset of the workload, an impact value is assigned, representing the change in system expiration date that would occur if the workload unit was removed from the system. The term "expiration date" is the date when the server workload is expected to exceed its capacity because of growth in workload. The expiration date may be calculated using life expectancy, capacity space, or other method, as detailed in the Specification on page 11, lines 1-18. Applicants respectfully point out that while the manner of calculating the expiration date for the system may be flexible, Applicants are not claiming a manner of calculating expiration date for a system. Applicants are claiming a system and method and program storage device for evaluating workload across a processing environment, and it is the assigning of an impact value as the determined change in expiration date for each workload unit that is a claim feature.

The 102 reference, the Yang patent, is directed to a method and apparatus for modeling or profiling a system based on workload in order design the system. A model is generated using "a set of generic system activities" and performance estimates, after which hardware parameters are determined to design a system to handle the activities. Yang uses computer activity elements ("CAE") "to capture the

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fundamental activities being performed by [a] respective software application" (see: Col. 4, line 1-8). A "user focussed workload" ("UFW") is collected "using forms or templates ...regarding the application that is available to the user" (Col. 5, lines 50-53). The UFW is translated into a computer activity workload ("CAW") representing the workload data structure that mathematically describes the workload in terms of CAE elements (Col. 5, lines 58-62). What Yang does is model expected application workload for a user and then recommends system requirements for creating a system for that specific user for the user's expected usage of the system.

Applicants respectfully assert that the Yang patent neither teaches nor suggests the invention as claimed. Yang does not teach or suggest evaluating workload across an actual processing environment having a plurality of computer systems each having a plurality of assigned workload units. Rather, Yang models anticipated requirements for projected applications under user-estimated usage conditions. Yang does not assign a plurality of impact values to assigned workload units. Rather, Yang represents a workload data structure that mathematically describes workload estimates. Yang makes no mention of system expiration date, but simply models a larger system to accommodate larger workloads.

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Applicants reiterate that the terms used in the claims, including "impact value" and "system expiration date" are terms that have definite meanings for the present invention. The Yang patent does not teach or suggest those terms in the context of workload evaluation for a processing environment having a plurality of computer system each having assigned workload units.

It is well established under U. S. Patent Law that, for a reference to anticipate claim language under 35 USC 102, that reference must teach each and every claim feature. Since the Yang patent does not teach steps or means for assigning a plurality of impact values, one impact value for each workload unit assigned for each of the plurality of computing systems, wherein the assigning of each impact value comprises determining a change in system expiration date should the workload unit be removed from the system; and assessing the workload based on the impact values, it cannot be maintained that Yang anticipates the invention as set forth in the independent claims, Claims 1, 10, and 12. Applicants further point out that, a reference which does not anticipate the language of the independent claims cannot be said to anticipate the claims which depend therefrom and add further limitations thereto. Further, Yang makes no mention of system life expectancy (Claims 2 and 19), of

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system expiration date as a function of capacity space (Claims 3 and 20); creating a sorted impact list (Claims 4 and 13); altering or reassigning workload using To and From lists (Claims 5, 8, 9, 17 and 18); or having and using a target planning date (Claims 6 and 15) for changing a system expiration date (Claims 1 and 16). Applicants reiterate that Yang is essentially designing a system and opts to change the system design and not change the use of an existing system based on workload.

Anticipation under 35 USC 102 is established only when a single prior art reference discloses each and every element of a claimed invention. See: In re Schreiber, 128 F. 3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997); In re Paulsen, 30 F. 3d 1475, 1478-1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994); In re Spada, 911 F. 2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990) and RCA Corp. v. Applied Digital Data Sys., Inc., 730 F. 2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Since Yang does not teach each and every claim element, Applicants conclude that Yang does not anticipate the invention as claimed and that all of the pending claims are patentable over the Yang patent.

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Based on the foregoing amendments and remarks, Applicants respectfully request entry of the amendments, reconsideration of the amended claim language in light of the remarks, withdrawal of the rejections, and allowance of the claims.

Respectfully submitted,

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